



Council of the  
European Union

Brussels, 11 August 2014  
(OR. en)

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**Interinstitutional File:**  
**2014/0228 (NLE)**

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12438/14  
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RECH 339  
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## PROPOSAL

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 29 July 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
Union

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No. Cion doc.: COM(2014) 496 final ANNEX 1

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Subject: ANNEX to the Proposal for a Council Decision on the conclusion of the  
Agreement for scientific and technological cooperation between the  
European Union and the Faroe Islands associating the Faroe Islands to  
Horizon 2020 - the Framework Programme for Research and Innovation  
(2014-2020)

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Delegations will find attached document COM(2014) 496 final ANNEX 1.

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Encl.: COM(2014) 496 final ANNEX 1



Brussels, 29.7.2014  
COM(2014) 496 final

ANNEX 1

**ANNEX**

**to the**

**Proposal for a Council Decision**

**on the conclusion of the Agreement for scientific and technological cooperation between the European Union and the Faroe Islands associating the Faroe Islands to Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020)**

**ANNEX**

**AGREEMENT FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION**

**BETWEEN**

**THE EUROPEAN UNION AND THE FAROE ISLANDS**

**ASSOCIATING THE FAROE ISLANDS TO HORIZON 2020 – THE FRAMEWORK  
PROGRAMME FOR RESEARCH AND INNOVATION (2014-2020)**

**THE EUROPEAN UNION,**

hereinafter referred to as "the Union",

of the one part,

and

**THE GOVERNMENT OF THE FAROES,**

hereinafter referred to as "the Faroes",

of the other part,

hereinafter jointly referred to as the "Parties",

WHEREAS the Union programme for research and innovation “Horizon 2020 - the Framework Programme (2014-2020)” (hereinafter referred to as ‘Horizon 2020’) was established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council<sup>1</sup>. The Specific Programme implementing Horizon 2020 was adopted by Council Decision No 2013/743/EU<sup>2</sup>.

WHEREAS Article 7 of Horizon 2020 stipulates that specific terms and conditions regarding the participation of associated countries in Horizon 2020, including the financial contribution, based on the gross domestic product of the associated country shall be determined by an international agreement between the Union and the associated country.

CONSIDERING the successful participation of the Faroese researchers in projects funded by the Union and the importance of current scientific and technological cooperation between the Faroes and the Union and their mutual interest in strengthening Research and Innovation in the context of the establishment of the European Research Area.

CONSIDERING the interest of both Parties in encouraging the mutual access of their research entities to research and development activities in the Faroes, on the one hand, and to the Union's framework programmes for research and technological development, on the other.

RECOGNISING the special situation of the Faroe Islands with their small territorial size and population and close proximity to the EU as a northern European neighbour.

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<sup>1</sup> Regulation of the European Parliament and of the Council establishing Horizon 2020 (OJ L347, 20.12.2013, p.104).

<sup>2</sup> Council Decision establishing the Specific Programme implementing Horizon 2020 (OJ L347, 20.12.2013, p.965).

WHEREAS the Government of the Faroes concludes this Agreement on behalf of the Kingdom of Denmark pursuant to the Act on the Conclusion of Agreements under International Law by the Government of the Faroes.

WHEREAS without prejudice to the relevant provisions of the Treaty on the Functioning of the European Union (hereinafter referred to as "TFEU"), this Agreement and any activities entered into under it will in no way affect the powers vested in the Member States to undertake bilateral activities with the Faroes in the fields of science, technology, research and development, and to conclude, where appropriate, agreements to that end,

HAVE AGREED AS FOLLOWS:

## ARTICLE 1

### Scope

1. The Faroes shall participate as associated country, under the terms and conditions established by, or referred to, in this Agreement and its Annexes, to Horizon 2020 as established by Regulation (EU) No 1291/2013<sup>3</sup> of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 – the Framework Programme for Research and Innovation (2014-2020), and by Regulation (EU) No 1290/2013<sup>4</sup> laying down the rules for the participation and dissemination in Horizon 2020, and by Council Decision 2013/743/EU<sup>5</sup>, establishing the Specific Programme Implementing Horizon 2020.
- 1 bis. The Regulation (EC) No 294/2008 of the European Parliament and of the Council as amended by the Regulation (EU) No 1292/2013 of the European Parliament and of the Council shall apply to participation of Faroese legal entities in Knowledge and Innovation Communities<sup>6</sup>.
2. All acts deriving from the acts referred to in paragraph 1, including acts setting up the structures needed for the implementation of Horizon 2020 through research activities under Articles 185 and 187 of the TFEU shall be applicable in the Faroes.
3. In addition to the association referred to in paragraph 1, cooperation may include:
  - (a) regular discussions on the orientations and priorities for research policies and planning in the Faroes and the Union,
  - (b) discussions on cooperation prospects and development,
  - (c) timely provision of information concerning the implementation of programmes and research projects of the Faroes and of the Union, and concerning the results of work undertaken within the framework of this Agreement,
  - (d) joint meetings,

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<sup>3</sup> OJ L347, 20.12.2013, p.104.

<sup>4</sup> OJ L347, 20.12.2013, p.81.

<sup>5</sup> OJ L347, 20.12.2013, p.965.

<sup>6</sup> Regulation (EU) No 1292/2013 of the European Parliament and of the Council of 11 December 2013 amending Regulation (EC) No 294/2008 establishing the European Institute of Innovation and Technology (OJ L347, 20.12.2013, p.174).

- (e) visits and exchanges of research workers, engineers and technicians,
- (f) regular and sustained contacts between programme managers or project managers of the Faroes and the Union,
- (g) participation of experts in seminars, symposia and workshops.

## **ARTICLE 2**

### **Terms and conditions with respect to the association of the Faroes to Horizon 2020**

1. Legal entities of the Faroes may participate in indirect actions and in the activities of the Joint Research Centre of the European Commission under the same conditions as those applicable to legal entities of Member States of the Union, subject to the terms and conditions established by, or referred to, in Annexes I and II. For the Faroes research entities, the terms and conditions applicable for the submission and evaluation of proposals and those for the granting and conclusion of grant agreements and/or contracts under Union programmes shall be the same as those applicable for grant agreements and/or contracts concluded under the same programmes with research entities established in the Union, taking into account the mutual interests of the Union and the Faroes.

Legal entities established in the Union and the Joint Research Centre of the European Commission, may participate in the Faroes' research programmes and projects in themes equivalent to those of Horizon 2020 under the same conditions as those applicable to legal entities of the Faroes, subject to the terms and conditions established by, or referred to, in Annexes I and II. A legal entity established in another country associated to Horizon 2020 shall enjoy the same rights and obligations under this Agreement as legal entities that are established in a Member State, provided that the said associated country in which the entity is established has agreed to award legal entities from the Faroes the same rights and obligations.

2. From the date of the application of this Agreement the Faroes shall pay for every year of the duration of Horizon 2020 a financial contribution to the annual budget of the Union. The financial contribution of the Faroes shall be added to the amount earmarked each year in the annual budget of the Union for commitment appropriations to meet the financial obligations arising out of different forms of measures necessary for the execution, management and operation of Horizon 2020. The rules governing the calculation and the payment of the financial contribution of the Faroes are set out in Annex III.
3. Representatives of the Faroes shall participate as observers in the committees established within Horizon 2020. These committees shall meet without the presence of representatives of the Faroes at the time of voting. The Faroes will be informed of the result. Participation as referred to in this paragraph shall take the same form, including procedures for receipt of information and documentation, as that applicable to representatives from Member States.
4. Representatives of the Faroes shall participate in the Board of Governors of the Joint Research Centre according to the Rules of Procedure for the Board of Governors of the Joint Research Centre.

5. Travel costs and subsistence costs incurred by representatives of the Faroes participating in meetings of the committees and bodies referred to in this Article, or in meetings related to the implementation of Horizon 2020 organised by the Union shall be reimbursed by the Union on the same basis as, and in accordance with the procedures currently in force for, representatives of the Member States.

### **ARTICLE 3**

#### **Enhancement of cooperation**

1. The Parties will make every effort, within the framework of their applicable legislation, to facilitate the free movement and residence of research workers participating in the activities covered by this Agreement and to facilitate cross-border movement of goods intended for use in such activities.
2. The Parties will ensure that no fiscal charge or levy shall be imposed upon the transferring of funds between the Union and the Faroes, when said funds are needed for the operation of activities covered by this Agreement.

**ARTICLE 4**  
**EU-Faroes Research and Innovation Committee**

1. A joint committee called the "EU-Faroes Research and Innovation Committee" shall be established, whose functions shall include:
  - (a) ensuring, evaluating and reviewing the implementation of this Agreement,
  - (b) examining any measure of a nature to improve and develop cooperation,
  - (c) regularly discussing the future orientations and priorities of research policies and research planning in the Faroes and the Union and the prospects for future cooperation,
  - (d) making, subject to each Party's domestic approval processes, technical amendments to this Agreement as may be required.
2. The EU-Faroes Research and Innovation Committee, which shall be composed of representatives of the Commission and of the Faroes, shall adopt its Rules of Procedure.
3. The EU-Faroes Research and Innovation Committee shall meet upon the request of one of the Parties. The Committee will work on an on-going basis through exchange of documents, e-mails and other means of communication.

**ARTICLE 5**  
**Final provisions**

1. Annexes I, II, III and IV shall form an integral part of this Agreement.
2. This Agreement is hereby concluded for the duration of Horizon 2020. It shall enter into force on the date on which both Parties have notified each other of the completion of their procedures for that purpose. It shall be provisionally applied as of 1 January 2014.

This Agreement may only be amended in writing by common consent of the Parties. The entry into force of the amendments will follow the same procedure as those applicable for the Agreement itself through diplomatic channels. Either of the Parties may terminate this Agreement at any time upon six months' written notice through diplomatic channels. Projects and activities in progress at the time of termination and/or expiry of this Agreement shall continue until their completion under the conditions laid down in this Agreement. The Parties shall settle by common consent any other consequences of termination.

3. Should a Party notify the other that it shall not conclude this Agreement, it is hereby mutually agreed that:
  - the Union shall reimburse to the Faroes its contribution to the annual budget of the European Union referred to in Article 2(2),

- however, funds committed by the Union in relation to the participation of the Faroese legal entities in indirect actions, including reimbursements referred to in Article 2(5), shall be deducted by the Union from that reimbursement,
  - projects and activities launched under this provisional application and that are still in progress at the time of the notification referred to in paragraph 2 shall continue until their completion under the conditions laid down in this Agreement.
4. Should the Union decide to revise Horizon 2020, it shall notify the Faroes of the exact content of these revisions within one week of their adoption by the Union. In case of such revision or extension of the research programmes, the Faroes may terminate this Agreement by giving six months' notice. The Parties shall give notice of any intention to terminate or to extend this Agreement within three months of the adoption of the Union's decision.
  5. When the Union adopts a new multi-annual framework programme for research, technological development and demonstration activities, a new agreement may be renegotiated or renewed under mutually agreed conditions, at the request of either of the Parties.
  6. This Agreement shall apply, on the one hand, to the territories in which the TFEU is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Faroes.
  7. This Agreement shall be drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish, Swedish and Faroese languages, each text being equally authentic.



## ANNEX I

### TERMS AND CONDITIONS FOR THE PARTICIPATION OF LEGAL ENTITIES OF MEMBER STATES OF THE UNION AND OF THE FAROES

For the purpose of this Agreement, a "legal entity" means any natural person, or any legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations.

#### **I. Terms and conditions for the participation of legal entities of the Faroes in indirect actions of Horizon 2020**

1. Participation and funding of legal entities established in the Faroes in indirect actions of Horizon 2020 shall follow the conditions laid down for associated countries in Regulation (EU) No 1290/2013 laying down the Rules for Participation and dissemination in H2020 and the terms and conditions established by, or referred to in this Agreement and the annexes thereto.

In case the Union makes provisions for the implementation of Articles 185 and 187 of the TFEU, the Faroes shall be allowed to participate in the legal structures created under these provisions, in conformity with the decisions and regulations that have been or will be adopted for the establishment of these legal structures.

Legal entities established in the Faroes shall be eligible, under the same conditions as legal entities established in the Member States, for financial instruments established under Horizon 2020.

2. Legal entities of the Faroes shall be taken into consideration, alongside those of the European Union, for the selection of independent experts for the tasks, and under the conditions foreseen in Regulation (EU) No 1290/2013 laying down the rules for participation in H2020.
3. In conformity with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the Financial rules applicable to the general budget of the European Communities (hereinafter referred to as "Financial Regulation"), and the Commission Delegated Regulation (EU) 1268/2012 of 29 October 2012 on the rules of application of the Financial Regulation, a grant agreement and/or contract concluded by the Union with any legal entity of the Faroes in order to perform an indirect action shall provide for controls and audits to be carried out by, or under the authority of, the Commission or the Court of Auditors of the European Union. In a spirit of cooperation and mutual interest, the relevant authorities of the Faroes shall provide any reasonable and feasible assistance as may be necessary or helpful under the circumstances to perform such controls and audits.

## **II. Terms and conditions for the participation of legal entities of Member States in the Faroese research programmes and projects**

1. The participation of legal entities established in the Union, created under the national law of one of the Member States of the Union or under the Union law, in projects of the Faroese research and development programmes may require the joint participation of at least one Faroese legal entity. Proposals for such participation shall be submitted jointly, where required, with the Faroese legal entity/ies.
2. Subject to paragraph 1 and to Annex II, the rights and obligations of legal entities established in the Union participating in the Faroese research projects within research and development programmes, the terms and conditions applicable for the submission and evaluation of proposals and for the granting and conclusion of grant agreements and/or contracts in such projects shall be subject to the Faroese laws, regulations and government directives governing the operation of research and development programmes, as well as national security constraints where applicable, as applicable to Faroese legal entities and assuring equitable treatment, taking into account the nature of the cooperation between the Faroes and the Union in this field.

Funding of legal entities established in the Union participating in Faroese research projects within research and development programmes shall be subject to Faroese laws, regulations and government directives governing the operation of research and development programmes, as well as national security constraints where applicable, as applicable to non-Faroese legal entities participating in the Faroese research projects within research and development programmes. In the case where funding is not provided to the non-Faroese legal entities, Union legal entities shall cover their own costs, including their relative share of the project's general management and administrative costs.

3. Proposals for research in all fields are to be submitted to the Faroese Research Council (Granskingarráðið).
4. The Faroes shall regularly inform the Union of current Faroese programmes and participation opportunities for legal entities established in the Union.

## ANNEX II

### PRINCIPLES ON THE ALLOCATION OF INTELLECTUAL PROPERTY RIGHTS

#### I. Application

For the purposes of this Agreement:

1. "intellectual property" shall have the meaning given in Article 2 of the Convention establishing the World Intellectual Property Organisation, signed in Stockholm on 14 July 1967,
2. "knowledge" shall mean the results, including information, whether or not these results can be protected, as well as copyrights or rights pertaining to such information following applications for, or the issue of, patents, designs, plant varieties, supplementary protection certificates or similar forms of protection.

#### II. Intellectual property rights of legal entities of the Parties

1. Each Party shall ensure that the intellectual property rights of legal entities of the other Party participating in activities carried out pursuant to this Agreement, and the related rights and obligations arising from such a participation, shall be consistent with the relevant international conventions that are applicable to the Parties, including the TRIPS Agreement (Agreement on trade-related aspects of intellectual property rights administered by the World Trade Organisation) as well as the Berne Convention (Paris Act 1971) and the Paris Convention (Stockholm Act 1967).
2. Legal entities established in the Faroes participating in indirect actions of Horizon 2020 shall have intellectual property rights and obligations in accordance with Regulation (EU) 1290/2013 of the European Parliament and of the Council laying down the rules for participation and dissemination in Horizon 2020 and in the grant agreements and/or contracts concluded with the Union accordingly, and that shall comply with paragraph 1.
3. Where legal entities of the Faroes participate in an indirect action under Horizon 2020, implemented pursuant to Articles 185 and 187 of the TFEU, the legal entities established in the Faroes shall have intellectual property rights and obligations in accordance with Regulation (EU) No 1290/2013 of the European Parliament and of the Council laying down the rules for participation and dissemination in Horizon 2020 and provisions of the relevant grant agreements.
4. Legal entities established in the European Union Member States participating in Faroese research programmes or projects shall have the same intellectual property rights and obligations as those of legal entities established in the Faroes participating in such research programmes or projects in accordance with paragraph 1.

### **III. Intellectual property rights of the Parties**

1. Except if otherwise specifically agreed by the Parties, the following rules shall apply to the intellectual property rights generated by the Parties in the course of activities carried out within Article 1(3) of this Agreement:
  - (a) the Party generating the intellectual property shall have the ownership thereof. Where their respective shares of the work cannot be determined, the Parties shall co-own the intellectual property;
  - (b) the Party holding ownership shall grant the other Party rights of access to and the use of the intellectual property with a view to the activities referred to in Article 1(3) of this Agreement. Such access rights shall be granted on a royalty-free basis.
  
2. Except if otherwise specifically agreed by the Parties, the following rules shall apply to scientific publication from the Parties:
  - (a) where a Party publishes scientific and technical data, information and results, journals, articles, reports, books, including audiovisual, works and software, arising and relating to activities undertaken under this Agreement, a worldwide, non-exclusive, irrevocable, royalty-free licence shall be granted to the other Party to translate, reproduce, adapt, transmit and publicly distribute such works, unless precluded by existing intellectual property rights of third parties;
  - (b) all copies of data and information, protected by copyright, that have to be publicly distributed and prepared under this section, shall indicate the names of the author or authors of the work, unless an author explicitly declines to be named. They shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.
  
3. Except if otherwise specifically agreed by the Parties, the following rules shall apply to undisclosed information of the Parties:
  - (a) when communicating to the other Party information relating to activities carried out pursuant to this Agreement, each Party shall identify that information which it wishes to remain undisclosed;
  - (b) for the specific purposes of implementing this agreement, the receiving Party may under its own responsibility, communicate such undisclosed information as classified information to bodies or persons under its authority and under obligation to keep the information confidential;
  - (c) with the prior written consent of the Party providing undisclosed information, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted by subparagraph (b). The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party shall provide such approval to the extent permitted by its domestic policies, regulations and laws;

- (d) non-documentary undisclosed or other confidential or privileged information provided in seminars and other meetings between representatives of the Parties arranged under this Agreement, or information arising from the attachment of staff, use of facilities or indirect actions, shall remain confidential when the recipient of such undisclosed or other confidential or privileged information was made aware of the confidential character of the information before it was, in accordance with subparagraph (a);
- (e) each Party shall endeavour to ensure that undisclosed information received in accordance with subparagraphs (a) and (c) is controlled as provided for in this Agreement. If one of the Parties becomes aware that it will be, or may be reasonably expected to become, unable to meet the non-dissemination provisions laid down in subparagraphs (a) and (c), it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

## ANNEX III

### RULES GOVERNING THE FINANCIAL CONTRIBUTION OF THE FAROES TO HORIZON 2020

#### I. Calculation of the financial contribution of the Faroes

1. The financial contribution of the Faroes to Horizon 2020 shall be established on a yearly basis in proportion to, and in addition to, the amount available each year in the general budget of the European Union for commitment appropriations needed for the implementation, management and operation of the Horizon 2020 Programme.
2. The proportionality factor governing the contribution of the Faroes shall be obtained by establishing the ratio between the gross domestic product of the Faroes, at market prices, and the sum of gross domestic products, at market prices, of the Member States of the Union. These ratios shall be calculated, for the Member States, on the basis of the latest statistical data from the Commission (Eurostat) available at the time of publication of the draft budget of the European Union for the same year and for the Faroes on the basis of the latest statistical data pertaining to the same year from the National Statistical Authority of the Faroes (Hagstova Føroya) available at the time of publication of the draft budget of the Union.
3. The Commission shall communicate to the Faroes, as soon as possible, and at the latest on 1 September of the year before each financial year, the following information together with relevant background material:
  - the amounts in commitment appropriations, in the statement of expenditure of the draft budget of the European Union corresponding to Horizon 2020.
  - the estimated amount of the contributions derived from the draft budget of the Union, corresponding to the participation of the Faroes in Horizon 2020 in accordance with paragraphs 1, 2 and 3.

Once the general budget of the Union has been finally adopted, the Commission shall communicate to the Faroes, in the statement of expenditure corresponding to the Faroese participation, the final amounts referred to in paragraph 1.

In the fourth year after this Agreement becomes applicable, the Parties shall review the proportionality factor governing the financial contribution of the Faroes, on the basis of the data concerning participation of Faroese legal entities in indirect and direct actions under Horizon 2020 in the years 2014-2016.

#### II. Payment of the financial contribution of the Faroes

1. The Commission shall issue, at the latest in January and June of each financial year, a call for funds to the Faroes corresponding to its contribution under this Agreement.

These calls for funds shall provide, respectively, for the payment:

of six-twelfths of the Faroese contribution 30 days after receipt of the calls for funds. However, the six-twelfths to be paid 30 days after receipt of the call issued in January shall be calculated on the basis of the amount set out in the statement of

revenue of the draft budget: the regularisation of the amount thus paid shall occur with the payment of the six-twelfths 30 days after receipt of the call for funds issued at the latest in June.

For the first year of implementation of this Agreement, the Commission shall issue a first call for funds within 30 days of its provisional application. Should this call be issued after 15 June, it shall provide for the payment of twelve/twelfths of the Faroese contribution within 30 days, calculated on the basis of the amount set out in the statement of revenue of the budget.

2. The contribution of the Faroes shall be expressed and paid in euro. Payment by the Faroes shall be credited to the Union programmes as budgetary revenue allocated to the appropriate budget heading in the statement of revenue of the annual budget of the Union. The Financial Regulation shall apply to the management of the appropriations.
3. The Faroes shall pay its contribution under this Agreement in accordance with the schedule in paragraph 1. Any delay in the payment of the contribution shall give rise to the payment of default interest by the Faroes on the outstanding amount from the due date. The interest rate for amounts receivable not repaid on the due date shall be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union, in force on the first calendar day of the month in which the due date falls, increased by one and a half percentage points.

In case the delay in the payment of the contribution is such that it may significantly jeopardise the implementation and management of the programme, participation in the programme of the Faroes for the concerned financial year will be suspended by the Commission following the absence of payment 20 working days after a formal letter of reminder sent to the Faroes, without prejudice to the Union's obligations in accordance with grant agreements and/or contracts already concluded pertaining to the implementation of selected indirect actions.

4. At the latest on 31 May of the year following a financial year, the statement of appropriations for Horizon 2020 for that financial year shall be prepared and transmitted to the Faroes for information, in accordance with the format of the Commission's revenue and expenditure account.
5. The Commission, at the time of the closure of the accounts relating to each financial year, within the framework of the establishment of the revenue and expenditure account, shall proceed to the regularisation of the accounts with respect to the participation of the Faroes. This regularisation shall take into consideration modifications which have taken place, either by transfer, cancellations, carryovers, de-commitments, or by supplementary and amending budgets during the financial year. This regularisation shall occur at the time of the second payment for the next financial year, and for the last financial year in July 2021. Further regularisation shall occur every year until July 2023.

## ANNEX IV

### FINANCIAL CONTROL OF FAROESE PARTICIPANTS IN THE PROGRAMMES COVERED BY THIS AGREEMENT

#### I. Direct Communication

The Commission shall communicate directly with the participants in the Programme established in the Faroes and with their subcontractors. They may submit directly to the Commission all relevant information and documentation which they are required to submit on the basis of the instruments referred to in this Agreement and of the grant agreements and/or contracts concluded to implement them.

#### II. Audits

1. In accordance with European Parliament and Council Regulation (EU, Euratom) No 966/2012<sup>7</sup> and to Commission Delegated Regulation (EU) No 1268/2012<sup>8</sup> (hereinafter referred to as the 'Rules of Application') and with the other rules referred to in this Agreement, the grant agreements and/or contracts concluded with participants in the Programme established in the Faroes shall provide for scientific, financial, technological or other audits to be conducted at any time on the premises of the participants and of their subcontractors by Commission agents or by other persons mandated by the Commission.
2. Commission agents, the European Court of Auditors and other persons mandated by the Commission shall have appropriate access to sites, works and documents (both electronic and paper versions) and to all the information required in order to carry out such audits on- the-spot subject to the inclusion of this right of access that shall be stated explicitly in the grant agreements and/or contracts concluded to implement the instruments referred to in this Agreement with participants from the Faroes. The non-provision of such rights would be regarded as a failure to substantiate costs and, consequently, as a potential breach of the grant agreements.
3. The audits may be conducted after the Programme or this Agreement expire, on the terms laid down in the grant agreements and/or contracts in question.

#### III. On-The-Spot Checks

1. Within the framework of this Agreement, the Commission (OLAF) shall be authorised to carry out on-the-spot checks and inspections in the premises of participants and their subcontractors from the Faroes, in accordance with the terms and conditions laid down in Council Regulation (Euratom, EC) No 2185/96<sup>9</sup>.

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<sup>7</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L298, 26.10.2012).

<sup>8</sup> Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L362, 31.12.2012).

<sup>9</sup> OJ L292, 15.11.1996, p. 2.



2. On-the-spot checks and inspections shall be prepared and conducted by the Commission in close collaboration with the National Audit Office (Landsgrannskoðanin). The latter shall be notified a reasonable time in advance of the object, purpose and legal basis of the checks and inspections, so that they can provide assistance. To that end, the officials of the competent Faroese authorities may participate in the on-the-spot checks and inspections.
3. If the Faroese authorities concerned so wish, the on-the-spot checks and inspections may be carried out jointly by the Commission and them.
4. Where the participants in the Programme resist an on-the-spot check or inspection, the Faroese authorities, acting in accordance with national rules and regulations, shall assist the Commission inspectors, to a reasonable extent as needed to allow them to fulfil their duty in carrying out an on-the-spot check or inspection.
5. The Commission shall report as soon as possible to the competent Faroese authority any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any case the Commission shall be required to inform the abovementioned authority of the result of such checks and inspections.

#### **IV. Information and Consultation**

1. For the purposes of proper implementation of this Annex, the competent Faroese and Union authorities shall regularly exchange information, unless forbidden or unauthorised by national rules and regulations and, at the request of one of the Parties, shall conduct consultations.
2. The competent Faroese authorities shall inform the Commission within reasonable time of any fact or suspicion which has come to their notice relating to an irregularity in connection with the conclusion and implementation of the grant agreements and/or contracts concluded in application of the instruments referred to in this Agreement.

#### **V. Confidentiality**

Information communicated or acquired in any form under this Annex shall be covered by professional secrecy and protected in the same way as similar information is protected by Faroese law and by the corresponding provisions applicable to the Union's institutions. Such information may not be communicated to persons other than those within the Union's institutions or in the Member States or the Faroes whose functions legally require them to know it, nor may it be used for purposes other than to ensure effective protection of the Parties' financial interests.

#### **VI. Administrative Measures and Penalties**

Without prejudice to application of Faroese criminal law, administrative measures and penalties may be imposed by the Commission in accordance with Regulations (EU, Euratom) No 966/2012, (EU) No 1268/2012 and (EC, Euratom) No 2988/95<sup>10</sup>.

#### **VII. Recovery and Enforcement**

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<sup>10</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L312, 23.12.1995).

Decisions taken by the Commission under Horizon 2020 covered by this Agreement which impose a pecuniary obligation on persons other than States shall be enforceable in the Faroes. If so requested by the Commission, the authority designated by the Government of the Faroes shall commence proceedings for the enforcement of the decision on behalf of the Commission. In this case, the decision of the Commission shall be submitted to the Faroese Court, without other formality than verification of the authenticity of the decision, by the authority designated for this purpose by the Government of the Faroes, which shall inform the Commission thereof. Enforcement shall take place in accordance with the Faroese law and rules of procedure. The relevant enforcement provisions shall be incorporated in the grant agreements and/or contracts with participants from the Faroes. The Court of Justice of the European Union shall have jurisdiction to review the legality of the decision of the Commission and suspend its enforcement. Moreover, the Faroese Court shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.